

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Karina Herrera	Team: Squad #09	CCRB Case #: 201807333	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 09/02/2018 4:40 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 3/2/2020	Precinct: 63		
Date/Time CV Reported Sun, 09/02/2018 9:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/04/2018 6:37 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Ali Alomaisi	23797	962918	063 PCT
2. POM Ainsley Carter	17452	958373	063 PCT
3. SGT Christophe Romero	00083	947946	063 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Paul Alva	11022	963372	063 PCT
2. POM Sukhrob Akhmedov	18061	963840	063 PCT
3. POM Sun Rah	16371	961141	063 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Christophe Romero	Abuse: Sergeant Christopher Romero forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
B.POM Ainsley Carter	Force: Police Officer Ainsley Carter used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Ainsley Carter	Force: Police Officer Ainsley Carter hit § 87(2)(b) against a wall.	§ 87(2)(b)
D.POM Ali Alomaisi	Force: Police Officer Ali Alomaisi used a chokehold against § 87(2)(b)	§ 87(2)(b)
E.POM Ali Alomaisi	Force: Police Officer Ali Alomaisi restricted § 87(2)(b) breathing.	§ 87(2)(b)
F.POM Ali Alomaisi	Force: Police Officer Ali Alomaisi used physical force against § 87(2)(b)	§ 87(2)(b)
G.SGT Christophe Romero	Force: Sergeant Christopher Romero used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On September 2, 2018, Sergeant John Lane called the IAB Command Center and filed the following complaint on behalf of § 87(2)(b) and it was received by the CCRB on September 13, 2018. On September 4, 2018, § 87(2)(b) filed the same complaint with the CCRB via the agency's website and via the Call Processing System.

At approximately 4:40 p.m. on September 2, 2018, § 87(2)(b) uncle, § 87(2)(b) called 911 to report that he had a verbal dispute with § 87(2)(b) at their home, which was located at § 87(2)(b) in Brooklyn (Board Review 01). Two officers, Police Officer Ainsley Carter and Police Officer Ali Alomaisi from the 63rd Precinct, responded to the incident location and advised § 87(2)(b) and § 87(2)(b) to remain separated from one another. The officers left without taking any police action.

Shortly after the officers left, both § 87(2)(b) and § 87(2)(b) called 911 and reported that the other person had assaulted them (Board review 01). Police Officer Carter and Police Officer Alomaisi responded to the incident location again. Police Officer Carter told § 87(2)(b) that an ambulance was requested so she could be evaluated. Additional officers, including Sergeant Christopher Romero, who was assigned to the 63rd Precinct at the time, and Police Officer Paul Alva from the 63rd Precinct, also responded to the incident location. When the ambulance arrived, § 87(2)(b) entered it with Police Officer Carter (**Allegation A: Abuse of Authority**, § 87(2)(g)).

While inside of the ambulance, § 87(2)(b) attempted to exit it and Police Officer Carter used physical force to restrain her (**Allegation B: Force**, § 87(2)(g)). Police Officer Carter allegedly pushed the left side of § 87(2)(b) face against the wall of the ambulance (**Allegation C: Force**, § 87(2)(g)). Police Officer Alomaisi, Police Officer Alva, and Sergeant Romero entered the ambulance and assisted in restraining § 87(2)(b) onto a stretcher. While § 87(2)(b) was being strapped onto the stretcher, Police Officer Alomaisi placed his hand in front of § 87(2)(b) neck and she was allegedly unable to breathe (**Allegation D: Force**, § 87(2)(g)) (**Allegation E: Force**, § 87(2)(g)).

After Police Officer Alomaisi removed his hand from § 87(2)(b) neck, § 87(2)(b) spat at him. Police Officer Alomaisi placed his hand on § 87(2)(b) left cheek and pushed down so she could face the wall (**Allegation F: Force**, § 87(2)(g)). Police Officer Alomaisi removed his hand from § 87(2)(b) face and the officers continued strapping her onto the stretcher. § 87(2)(b) sat up on the stretcher in order to breathe, and from behind her, Sergeant Romero pulled § 87(2)(b) hair (**Allegation G: Force**, § 87(2)(g)). The officers were eventually able to secure § 87(2)(b) onto the stretcher and she was escorted to § 87(2)(b) Hospital § 87(2)(b) in Brooklyn.

§ 87(2)(b) was not arrested or issued a summons during the incident. On September 24, 2019, the New York Police Department's (NYPD) Legal Department provided twelve Body-Worn Camera (BWC) videos in regards to this incident (Board Review 02).

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Christopher Romero forcibly removed § 87(2)(b) to the hospital.

It is undisputed that on the incident date, Sergeant Romero forcibly removed § 87(2)(b) to the hospital after officers responded to 911 calls from § 87(2)(b) and § 87(2)(b) stating that the other had assaulted them (Board Review 01). Sergeant Romero's BWC footage shows Sergeant Romero telling § 87(2)(b) "Listen, either you go in the ambulance by yourself or we make you" (Board Review 03). A threat of force was not pleaded because the officers eventually used force to subdue § 87(2)(b).

§ 87(2)(b) stated that when Police Officer Carter and Police Officer Alomaisi responded to the 911 calls, § 87(2)(b) told the officers that § 87(2)(b) had a mental disorder. § 87(2)(b) told the officers that she did not have a mental disorder and that she was going to therapy for chemical dependency. Police Officer Carter told § 87(2)(b) that an ambulance needed to be requested so she could be checked out.

§ 87(2)(b) stated that when the officers responded to the 911 calls, § 87(2)(b) became aggressive and started screaming at Police Officer Carter. Shortly after, § 87(2)(b) heard Police Officer Carter making a call where he informed someone about what had happened at the incident location. During that call, Police Officer Carter said, "We have a situation over here. This individual looks like she has some sort of a behavioral problem." Police Officer Carter told the person that he was speaking to that he would request an ambulance so § 87(2)(b) could be evaluated.

When Sergeant Romero arrived, he and § 87(2)(b) spoke separately for approximately thirty minutes, but § 87(2)(b) did not hear the context of their conversation. When asked about § 87(2)(b)'s demeanor while she spoke to Sergeant Romero, § 87(2)(b) said, "In the beginning, she calmed down a little bit, and then I saw her become aggressive again. She was talking calmly and then after that the tone of voice came up." Sergeant Romero informed § 87(2)(b) that an ambulance would be taking her for observation.

Police Officer Carter stated that when he arrived at the incident location, he spoke with § 87(2)(b) who was displaying many emotions. Police Officer Carter said, "She was breaking down and crying, she was anxious, then she was fine, and then she would go back to the yelling and the cursing." Police Officer Carter asked § 87(2)(b) if she had ever been evaluated by a doctor. § 87(2)(b) told Police Officer Carter that she was either seeing a psychiatrist or had a psychiatrist at some point. Police Officer Carter requested Sergeant Romero to the incident location because he believed § 87(2)(b) did not have an "apparent normal state" due to the many emotions she was experiencing, and as a supervisor, Sergeant Romero would be the one to decide if she needed to be taken to the hospital.

When Sergeant Romero arrived at the incident location, he spoke to § 87(2)(b) separately for approximately five to ten minutes; Police Officer Carter did not hear the contents of that conversation. After she spoke to Sergeant Romero, § 87(2)(b) told Police Officer Carter that she was willing to go to the hospital. Sergeant Romero made the decision to request an ambulance.

Police Officer Alomaisi stated that when he responded to the incident location for a second time on the incident date, § 87(2)(b) informed him that § 87(2)(b) had threatened herself and her family. While Police Officer Alomaisi was conversing with § 87(2)(b), § 87(2)(b) was pacing and making statements such as, “I can care less if I live or not.” Police Officer Alomaisi eventually spoke to § 87(2)(b) and he described her demeanor as abnormal because she pretended not to listen and she spoke under her breathe. When Police Officer Alomaisi asked § 87(2)(b) to repeat what she had said, she claimed that she did not say anything. At that moment, Police Officer Alomaisi believed Emergency Medical Services (EMS) needed to be called to the incident location in order to evaluate § 87(2)(b). When asked what he meant by “evaluate,” Police Officer Alomaisi said, “To see if she was EDP or not because you don’t want to take the risk if she’s threatening herself and family members and then something happens, so you’d rather have EMS to evaluate her just to be on the safe side.” Police Officer Alomaisi and Police Officer Carter requested a supervisor, Sergeant Romero, to the incident location.

When Sergeant Romero arrived at the incident location, he was informed about what had happened, including the alleged threats § 87(2)(b) made towards herself and her family. Sergeant Romero instructed the officers to request an ambulance and Police Officer Alomaisi did so. Police Officer Alomaisi believed Sergeant Romero spoke to § 87(2)(b) but he did not recall the context of their conversation. When the ambulance arrived, Police Officer Alomaisi informed the Emergency Medical Technicians (EMTs) about what had happened. The EMTs evaluated § 87(2)(b) as an Emotionally Disturbed Person (EDP) because § 87(2)(b) had alleged that she made threatening statements against herself and her family. The EMTs said § 87(2)(b) had to be transported to the hospital so she could see a psychiatrist. While § 87(2)(b) was outside of the ambulance, she stated that she did not want to leave. Sergeant Romero eventually convinced § 87(2)(b) to enter the ambulance.

Sergeant Romero stated that upon his arrival to the incident location, he spoke to several people, including Police Officer Carter who informed him that § 87(2)(b) was acting violent towards her family, that she may have taken a narcotic, and that she was recently having suicidal thoughts. Sergeant Romero spoke to § 87(2)(b) who told him that § 87(2)(b) was out of control and acting out. Sergeant Romero spoke to § 87(2)(b) alone, and based on his experience as a highway police officer who was trained as a drug recognition expert, he believed she was under the influence of a narcotic. Sergeant Romero said, “It’s hard to explain in detail. I don’t remember if her pupils were dilated, but she was sweating profusely and she was very agitated. It could’ve been that she was angry, but I think she mentioned that she took some kind of narcotic.”

In addition, Sergeant Romero believed § 87(2)(b) informed either him, another officer, or a family member that she had been experiencing suicidal thoughts recently. After his conversation with § 87(2)(b), Sergeant Romero decided that she was an EDP, and at that point, she was required to go to the hospital. Sergeant Romero said, “I figured a narcotic coupled with suicidal thoughts – she’s got to go to the hospital.” The officers allowed § 87(2)(b) to retrieve her belongings and then they escorted her to the ambulance. Sergeant Romero convinced § 87(2)(b) to enter the ambulance, but he did not know what he said to her.

EMT § 87(2)(b) was interviewed, but she had no recollection of this incident. The BWC videos that were provided by the NYPD Legal Department did not capture any of the preliminary conversations that occurred prior to § 87(2)(b) retrieving her belongings.

§ 87(2)(b) Hospital provided documentation in regards to § 87(2)(b) hospital visit § 87(2)(b) § 87(2)(b). The medical documents showed that § 87(2)(b) was irritable, boisterous, physically threatening, and verbally threatening at the time that she was admitted to the hospital. § 87(2)(b) wrote, "Patient was agitated, yelling, pushing staff, making suicidal statement ... she required restraints for safety." These medical records confirm Sergeant Romero's statement that at the time of the incident, § 87(2)(b) was making suicidal statements.

According to Patrol Guide Procedure 221-13, uniformed members of service can take an individual into protective custody if that individual appears to be mentally ill or emotionally disturbed and is conducting themselves in a manner that will likely result in serious injury to themselves or others (Board Review 05).

Medical records support both § 87(2)(b) and the officers' statements that at the time of the incident, § 87(2)(b) was emotionally disturbed and was conducting herself in a manner that would likely result in serious physical injury to herself or others. § 87(2)(g)

Allegation (B) Force: Police Officer Ainsley Carter used physical force against § 87(2)(b)
Allegation (C) Force: Police Officer Ainsley Carter hit § 87(2)(b) against a wall.

It is undisputed that § 87(2)(b) attempted to leave the ambulance after it was decided that she had to go to the hospital, and Police Officer Carter prevented her from doing so by physically restraining her. In dispute is whether Police Officer Carter hit § 87(2)(b) head against the wall of the ambulance.

§ 87(2)(b) stated that Police Officer Carter prevented her from leaving the ambulance by grabbing her arm and twisting it behind her back. While doing so, Police Officer Carter repeatedly instructed § 87(2)(b) to stop. During her interview, § 87(2)(b) said, "I was just trying to get him from touching and grabbing on me," and she made a rapid motion with her hands as if she was trying to avoid being held. In that process, Police Officer Carter pushed the back of § 87(2)(b) head forward and the left side of her face made contact with the wall of the ambulance.

Police Officer Carter stated that when § 87(2)(b) attempted to leave the ambulance, he restrained her by grabbing her shoulders and pulling her back onto the bench. Police Officer Carter did not twist § 87(2)(b) arm behind her back and he did not recall if § 87(2)(b) head made any contact with the ambulance wall. Police Officer Carter did not recall if he touched § 87(2)(b) head.

As previously mentioned, EMT § 87(2)(b) did not recall this incident. Police Officer Alomaisi, Sergeant Romero, and § 87(2)(b) were outside of the ambulance at the time, so they did not see what happened between Police Officer Carter and § 87(2)(b).

Police Officer Carter's BWC shows § 87(2)(b) attempting to leave the ambulance and Police Officer Carter physically restraining her from doing so (Board Review 06). The camera begins to shake during the physical encounter, so the entirety of Police Officer Carter and § 87(2)(b) interaction is not clearly visible. However, the video does show that while holding her arms, Police Officer Carter turns § 87(2)(b) body so she can face down on the ambulance bench, and in that process, the right side of § 87(2)(b) face appears to make physical contact with the backboard of the bench, but Police Officer Carter's hands are not on § 87(2)(b) head at this time. The video does not show Police Officer Carter twisting § 87(2)(b) arms. It is unclear if § 87(2)(b) head was against the ambulance wall or if Police Officer Carter's hand was on her head at any point.

Patrol Guide Procedure 221-01 states that "Force may be used ... when it is reasonable to place a person in custody or to prevent escape from custody" (Board Review 07).

As previously mentioned, § 87(2)(b) was required to go to the hospital after her conversation with Sergeant Romero, so she was considered to be under protective custody at the time she entered the ambulance. § 87(2)(g)

§ 87(2)(g)

Police Officer Carter's BWC shakes throughout the struggle so it is unclear whether Police Officer Carter hit § 87(2)(b) head against the wall of the ambulance, and as previously stated, EMT § 87(2)(b) who was the only other individual inside of the ambulance at the time, did not recall this incident. § 87(2)(g)

§ 87(2)(g)

Allegation (D) Force: Police Officer Ali Alomaisi used a chokehold against § 87(2)(b)

Allegation (E) Force: Police Officer Ali Alomaisi restricted § 87(2)(b) breathing.

It is undisputed that Police Officer Alomaisi gripped § 87(2)(b) neck while she was in handcuffs. In dispute is whether that action restricted § 87(2)(b) breathing.

§ 87(2)(b) stated that additional officers, including Police Officer Alomaisi, eventually entered the ambulance. The officers placed § 87(2)(b) on a stretcher, but she did not want to lay back because she felt like she could not breathe. § 87(2)(b) sat up so she could breathe and be more comfortable, but Police Officer Alomaisi choked her with his hand for approximately twenty seconds. During her interview, § 87(2)(b) said she could not breathe for a few of those seconds. § 87(2)(b) told Police Officer Alomaisi that she could not breathe and he let her go.

Police Officer Alomaisi's BWC footage shows officers trying to secure § 87(2)(b) onto a stretcher with orange restraints while § 87(2)(b) is screaming and moving her body (Board Review 08). Police Officer Alomaisi grabs an orange restraint with his left hand and places it over § 87(2)(b) but he does not secure it in that moment. While § 87(2)(b) is laying on the stretcher, she yells that

she cannot breathe. § 87(2)(b) sits up and Police Officer Alomaisi is still holding the restraint in his left hand. Suddenly, Police Officer Alomaisi's left hand releases the orange restraint, and at 5:28:03 p.m. in the video, his hand moves directly from the side of the stretcher to the front of § 87(2)(b) neck (Board Review 13). The video does not show when Police Officer Alomaisi removes his hand off of § 87(2)(b) neck, but approximately two seconds later, his hand is no longer on her neck.

Patrol Guide Procedure 221-01 states, "Members of the service SHALL NOT use a chokehold" (Board Review 07). The procedure defines a "chokehold" as, "... any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air."

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Force: Police Officer Ali Alomaisi used physical force against § 87(2)(b)

Allegation (G) Force: Sergeant Christopher Romero used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) spat at Police Officer Alomaisi after he used a chokehold against her, and in response, Police Officer Alomaisi placed his hand on § 87(2)(b) face and pushed it down against the stretcher. It is also undisputed that Sergeant Romero pulled § 87(2)(b) hair.

Police Officer Alomaisi stated that he placed his hand behind § 87(2)(b) ear and forced her head to face away so he could prevent her from spitting at another officer. Sergeant Romero said, "She was tensing up, she was resisting, and then she started spitting, so her head area had to be controlled." Sergeant Romero also wanted to prevent § 87(2)(b) from biting the officers. Sergeant Romero stated that he restrained § 87(2)(b) head by holding her ponytail; he did not believe he pulled § 87(2)(b) hair.

Sergeant Romero's BWC shows that in response to § 87(2)(b) spitting, Police Officer Alomaisi places his hand on § 87(2)(b) face and pushes it down, which makes her face the ambulance wall (Board Review 09). In that moment, § 87(2)(b) attempts to bite Police Officer Alomaisi's hand. Sergeant Romero's BWC also shows § 87(2)(b) lifting her upper body while Sergeant Romero is instructing her to keep her head back (Board Review 10). Sergeant Romero eventually pulls § 87(2)(b) ponytail and tells her to sit back.

Citing Patrol Guide Procedure 221-01, "Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life ..." (Board Review 07).

Based on the statements and the video obtained, the investigation determined that § 87(2)(b) was spitting and attempting to bite the officers – two actions that could endanger them. § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 11).
- Sergeant Romero has been a member of service for ten years and has been a subject in two CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Carter has been a member of service for three years and has been a subject in one CCRB complaint and one allegation, which is pending investigation. § 87(2)(g)
- Police Officer Alomaisi has been a member-of-service for two years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
- As of May 21, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 14).

Squad No.: 9

Investigator: _____

Signature _____ Print Title & Name _____ Date _____

Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature _____ Print Title & Name _____ Date _____